

**TAX TREATY BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC AND
THE GOVERNMENT OF THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME
WITH PROTOCOL, AND ADDITIONAL PROTOCOL.
ROME, 29 APRIL 1983¹**

His Majesty, the King of the Belgians, and the President of the Italian Republic,

Desiring to redraft, taking into account the changes in the tax laws of the two States, the Convention and the Final Protocol signed at Brussels on 19 October 1970 between Belgium and Italy for the avoidance of double taxation and the regulation of certain other questions with respect to taxes on income,

Have decided to conclude for this purpose a new Convention for the avoidance of double taxation and the prevention of tax fraud and tax evasion with respect to taxes on income, and have for that purpose appointed as their plenipotentiaries:

His Majesty the King of the Belgians:
Mr. Marcel Rymenans, Ambassador of Belgium at Rome;

The President of the Italian Republic:
Mr. Bruno Corti, Under-Secretary of State for Foreign Affairs.

Who having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions:

Article 1 - Personal scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in Belgium:

- (1) the individual income tax (L'impoôt des personnes physiques; de personenbelasting);
- (2) the corporate income tax (l'impôt des sociétés; de vennootschapsbelasting);

¹ Ratified in Italy with Law 03/04/1989, n. 148 (G.U. 27/04/1989 n. 97, S.O. n. 31). Exchange of ratification instruments: 14/07/1989. Entry into force: 29/07/1989 (G.U. 07/08/1989, n. 183). Additional protocol signed in Rome, 19/12/1984, ratified with law 03/04/1989 n. 148. Ratified in Belgium: law 08/08/1986 (M.B. 28/09/1986).

- (3) the income tax on legal entities (l'impôt des personnes morales; de rechtspersonenbelasting);
- (4) the income tax on non-residents (l'impôt des non-résidents; de belasting der niet-verblijfhouders);
- (5) the exceptional and temporary solidarity contribution (le participation exceptionnelle et temporaire de solidarité; de uitzonderlijke en tijdelijke solidariteitsbijdrage) including the prepayments (les précomptes; de voorheffingen); the surcharges (les décimes et centimes additionnels; de opdecimen en opcentiemen) on the said taxes and prepayments as well as the additional taxes on the individual income tax (hereinafter referred to as "Belgian tax");

(b) in Italy:

- (1) the individual income tax (l'imposta sul reddito delle persone fisiche);
- (2) the corporation income tax (l'imposta sul reddito delle persone giuridiche); and
- (3) the local income tax (l'imposta locale sui redditi); even if they are collected by withholding tax at the source (hereinafter referred to as "Italian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of important changes which have been made in their respective taxation laws.

Article 3 - *General definitions*

1. For the purposes of this Convention, unless the context otherwise requires:

- (a) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Italy as the context requires;
- (b) (1) the term "Belgium" means the national territory and the area in the sea under the jurisdiction of the Kingdom of Belgium;

(2) the term "Italy" means the territory of the Italian Republic and includes the areas beyond the territorial waters of Italy - and mainly the seabed and subsoil adjacent to the peninsular territory and the Italian Islands and situated beyond the territorial waters - to the limit established by the Italian laws for allowing the exploration and exploitation of the natural resources in such areas;
- (c) the term "person" includes an individual, a company and any other body of persons;
- (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes in the State in which it is resident;
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term "nationals" means:

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(h) the term "competent authority" means:

- (1) in Belgium, the Minister of Finance or his authorized representative;
- (2) in Italy, the Minister of Finance.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 - *Resident*

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person whose income, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5 - *Permanent establishment*

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, a quarry or any other place of exploitation of natural resources;
- (g) a building site or construction or installation project the duration of which exceeds 12 months.

3. A permanent establishment shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the use of a fixed place of business, for the enterprise, solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character;
- (f) an enterprise of a Contracting State, which is not governed by the provisions of paragraphs 2 and 4, restricts itself in the other Contracting State to letting, leasing or giving the right to use goods or rights referred to in paragraph 3 of Article 12.

4. A person - other than an agent of an independent status referred to in paragraph 5 - acting in a Contracting State on behalf of an enterprise of the other Contracting State is deemed to be a permanent establishment of the enterprise in the first-mentioned State if he has and habitually exercises in that State the authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise.

5. An enterprise of a Contracting State is not deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 - Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry and rights to which the provisions of general law respecting landed property apply. Also deemed to be immovable property are usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use or enjoyment, the letting, or the use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 - Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, and also executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In the absence of regular accounts or other proof which make it possible to determine the amount of profits of an enterprise of a Contracting State attributable to its permanent establishment situated in the other State, tax may be charged in that other State in accordance with the law of that State, account being taken of the normal profits of similar enterprises of the same State carrying on the same or similar activities under the same or similar conditions. Nevertheless, if this method leads to double taxation of the same profits, the competent authorities of the two States shall consult together to avoid such double taxation. In cases provided for in the preceding paragraph, the profit attributable to the permanent establishment may also be determined on the basis of an apportionment of the total profits of the enterprise between the various sections thereof, in so far as the result so obtained conforms to the principles set forth in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 - Shipping, inland waterways transport and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 - Associated enterprises

Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15% of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated in the same way as income from shares by the taxation law of the State of which the company making the distribution is a resident. This term means also income - even when paid in the form of interest - which is

taxable under the head of income from capital invested by the members of a company other than a company with share capital which is a resident of Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the dividends may be taxed in that other State according to its legislation.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to residents of the first-mentioned State except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - *Interest*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 15% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest may not be taxed in the State in which it arises, where it is:

(a) interest on loans not represented by bearer shares which are paid to the other Contracting State, a political or administrative subdivision or local authority thereof;

(b) interest paid to a credit institution of the other Contracting State on loans not represented by bearer shares and granted in the framework of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, debt-claims and deposits of any kind, as well as premiums on lottery bonds and all other income treated in the same way as income from money lent or deposited by the taxation law of the State in which the income arises. Nevertheless, the term "interest" shall not include interest treated as dividends by virtue of Article 10, paragraph 3, second sentence.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the interest is taxable in that other State according to its own law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5% of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematography films and films or tapes used for radio or television, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the royalties may be taxed in that other State according to its own laws.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the contract under which the royalties are paid was concluded, and such royalties are borne by it, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by

the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 - *Capital gains*

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 - *Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 - *Dependent personal services*

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) it is paid for employment exercised in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year;

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 - *Directors' fees*

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board or other similar body of a company which is a resident of the other Contracting State may be taxed in that other State.

2. Normal payments received by a person mentioned in paragraph 1 in another capacity shall be taxable, where appropriate, in accordance with the provisions of Article 14 or Article 15.

Article 17 - *Artists and athletes*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18 - *Pensions*

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 - *Government service*

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State, a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, a political or administrative subdivision or a local authority thereof.

Article 20 - Teachers

Remuneration, of whatever nature, which a professor or other member of the teaching profession who is resident in a Contracting State and who is present temporarily in the other Contracting State for the purpose of teaching there or for the purpose of carrying out scientific research for a period not exceeding two years at a university or other non-profit teaching or scientific research institution receives, shall only be taxable in the first-mentioned State.

Article 21 - Students, trainees or apprentices

Payments which a student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22 - Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the items of income are taxable in that other State according to its own law.

Article 23 - Methods for elimination of double taxation

1. With respect to Belgium, double taxation shall be avoided as follows:

(1) Where a resident of Belgium derives income not mentioned in (2g) below which in accordance with the provisions of the Convention may be taxed in Italy, Belgium shall exempt this income from tax but may in calculating the amount of tax on the remaining income of such resident apply the rate of tax which would have been applicable if the income in question had not been exempted.

(2) With regard to dividends taxable in accordance with paragraph 2 of Article 10, interest taxable in accordance with paragraph 2 or 7 of Article 11, and royalties taxable in accordance with paragraph 2 or 6 of Article 12, the fixed proportion in respect of foreign tax, determined under the conditions and at the rates provided for by Belgian law, shall be allowed as a credit against Belgian tax relating to such income; the rate of the fixed proportion in respect of foreign tax may not, however, be lower than the rate of the tax levied in Italy on such income in accordance with paragraph 2 of Article 10, paragraph 2 of Article 11 or paragraph 2 of Article 12, as the case may be.

(3) When, in accordance with Belgian law, losses of a Belgian enterprise which are attributable to a permanent establishment in Italy have been effectively deducted from the profits of that enterprise for taxation in Belgium, the exemptions provided in (1g) shall not apply in Belgium to the profits of other taxable periods attributable to that permanent establishment, to the extent those profits have also been exempted from tax in Italy because they have been set off against those losses.

2. With respect to Italy, double taxation shall be avoided as follows:

(1) Where a resident of Italy derives income which may be taxed in Belgium, Italy may, in determining its income taxes mentioned in Article 2 of this Convention, include in the basis upon which such taxes are imposed the said items of income, unless this Convention otherwise provides. In such case, Italy shall deduct from the taxes so calculated the tax on income paid in Belgium, but the amount of such deduction may not exceed that part of the Italian tax which is attributable to that income, in the ratio that such income bears to total income.

(2) Nevertheless, no deduction shall be granted if the income is taxed in Italy by means of a withholding of tax which is final, if so requested by the beneficiary and according to Italian law.

Article 24 - Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or requirement connected therewith which is other or more burdensome than that to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 - Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, notwithstanding the remedies provided in the framework of the domestic legal procedures of the States or requests for refunds submitted on the basis of Article 28, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action or the taxation by withholding at source resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. They shall consult together on the subject of administrative measures which are necessary for carrying out the provisions of the Convention and in particular on the subject of the proof to be given by residents of either State as to why they should benefit from the tax exemptions or reductions in the other State provided for in this Convention.

Article 26 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention, for preventing tax fraud and tax evasion or for carrying out the provisions of the domestic laws with regard to the taxes to which the Convention applies, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27 - Assistance in collection

1. The Contracting States agree to lend each other assistance and support in the notification and collection of the taxes mentioned in Article 2, the surcharges and additional charges and also interest and costs with respect thereto.
2. On the request of the competent authority of one of the Contracting States the competent authority of the other Contracting State shall ensure, in accordance with the legal provisions and regulations applicable to notification and collection of such taxes of the latter State, the notification and collection of tax claims mentioned in paragraph 1 which are due in the first-mentioned State. Such claims shall not enjoy priority in the State to which application is made and this State shall not be required to apply executory measures for which there is no provision in the legal provisions or regulations of the State making the application.
3. Applications mentioned in paragraph 2 shall be supported by an official copy of the executory documents and accompanied, if necessary, by an official copy of any final decisions of the Court.
4. As far as tax claims which are open to appeal are concerned, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in its laws; the provisions of paragraphs 1 to 3 shall apply, *mutatis mutandis*, to such measures.
5. Paragraph 1 of Article 26, third, fourth and fifth sentences, shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of the State to which application is made.

Article 28 - Refund of taxes levied by withholding at source

1. Taxes withheld at the source in a Contracting State will be refunded by request of the taxpayer if the right to collect such taxes is affected by the provisions of this Convention.
2. Claims for refund shall be produced to the competent authorities of the Contracting State which is obliged to carry out the refund in the time limit fixed by such State; they must be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the exemptions or reductions provided for by the Convention.
3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 25. They may also, by mutual agreement, establish other procedures for application of the limitations on tax laid down in this Convention.

Article 29 - Miscellaneous

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.
2. The Convention shall not apply to international organizations, to their bodies or to their officials, nor to persons who are members of a diplomatic or consular mission of a third State, when they are staying in one of the Contracting States and who are, for purposes of taxes on income, not treated as residents of either Contracting State.

3. The provisions of the Convention shall not prevent a Contracting State from taxing companies resident in that State in accordance with its own law in the case of redemption of stock or shares or in the case of distribution of the authorized share capital of such companies.

Article 30 - *Entry into force*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

2. The Convention shall enter into force on the fifteenth day after that on which the instruments of ratification are exchanged and its provisions shall apply:

(a) to taxes withheld at source on income credited or payable on or after 1 January of the year immediately following that in which the instruments of ratification are exchanged;

(b) to other taxes levied on income of taxable periods ending on or after 31 December of the year immediately following that of such exchange.

The Convention between Belgium and Italy for the avoidance of double taxation and the regulation of certain other questions with respect to taxes on income and the final protocol, signed in Brussels on 19 October 1970, will terminate and cease to have effect in respect of all Belgian and Italian taxes with reference to a period in which this Convention has effect with respect to these taxes, in accordance with paragraph 2. The provisions of that Convention and final protocol of 19 October 1970 remain applicable to the taxes mentioned in paragraph 3 of Article 2 of this Convention which are due for periods which precede its entry into force.

Article 31 - *Termination*

This Convention shall remain in force until terminated by one of the Contracting States; but either Contracting State may, on or before 30 June in any calendar year after 5 years from the year in which the instruments of ratification are exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination. In the event of denunciation before 1 July of such a year, the Convention shall apply for the last time:

(a) to taxes withheld at source on income credited or payable not later than 31 December of the year of termination;

(b) to other taxes on income of taxable periods ending before 31 December of the year next following the year of termination.

In witness whereof the Plenipotentiaries of the two States have signed this Convention and have affixed thereto their seals.

Done at Rome, 29 April 1983, in duplicate, in the Dutch, French and Italian languages, the three texts being equally authentic.

For the Kingdom of Belgium:

M. Rymenans

For the Italian Republic:

B. Corti

FINAL PROTOCOL (1983)

At the moment of signing the Convention for the avoidance of double taxation and for the prevention of tax fraud and tax evasion with respect to taxes on income, concluded today between Belgium and Italy, the undersigned Plenipotentiaries agree upon the following provisions which shall form an integral part of this Convention.

1. In paragraph 3 of Article 7, the expression "expenses which are incurred for the purposes of the permanent establishment" means the expenses which are directly related to the activities of the permanent establishment.

2. The provisions of paragraphs 1(b) and 2(b) of Article 19 shall not apply if the recipient of the income is a national of both Contracting States.

3. The provisions of paragraphs 1 and 2 of Article 19 shall apply to remuneration and pensions which the following services or institutions pay to their employees:

(a) with respect to Belgium:

- the National Company of Belgian Railways (la Société Nationale des Chemins de Fer belges; de Nationale Maatschappij der Belgische Spoorwegen);
- the Postal Service (la Regie des Postes; de Regie van Posterijen);
- the Telegraph and Telephone Service (la Regie des Tèlègraphes et des Tèlèphones; de Regie van Telegrafie en Telefonie);
- the General Commissariat of Tourism (le Commissariat gènèral du Tourisme; het Commissariaat-Generaal voor Toerisme);
- the Belgian Office of Foreign Trade (l'Office belge du Commerce exterieur; de Belgische Dienst voor de Buitenlandse Handel);

(b) with respect to Italy:

- the Italian Railway Administration (Azienda Autonoma delle Ferrovie dello Stato);
- the Administrations of Postal and Telecommunication Services (Amministrazione delle Poste e delle Telecomunicazioni);
- the Italian National Tourist Office (l'Ente Nazionale Italiano per il Turismo);
- the National Institute for Foreign Trade (Istituto Nazionale per il Commercio Estero).

4. No provision of Article 24 shall be interpreted as preventing Belgium from:

(a) taxing the total amount of the profits of a Belgian permanent establishment of a company which is resident in Italy or of an association having its place of effective management in Italy, at the rate of tax provided by the Belgian law, provided that this rate does not exceed the maximum rate applicable to the profits of companies which are residents of Belgium;

(b) levying the movable prepayment (prècompte mobilier) on dividends relating to a participation which is effectively connected with a permanent establishment or a fixed base in Belgium of a company which is a resident of Italy or an association which has its place of effective management in Italy, and which is taxable in Belgium as a legal entity.

5. In paragraph 1 of Article 25, the part of the sentence which reads "notwithstanding the remedies provided in the framework of the domestic legal procedures of the States or requests for refunds submitted on the basis of Article 28", shall be interpreted so that the taxpayer may request the mutual agreement procedure only after instituting the domestic legal procedures or submitting a request for refund on the basis of Article 28.

Done at Rome, 29 April 1983, in duplicate, in the Dutch, French and Italian languages, the three texts being equally authentic.

For the Kingdom of Belgium:
M. Rymenans

For the Italian Republic:
B. Corti

ADDITIONAL PROTOCOL (1984)

SIGNED AT ROME, 29 APRIL 1983

His Majesty, the King of the Belgians, and the President of the Italian Republic,

Desiring to modify the provisions of the Convention between Belgium and Italy for the avoidance of double taxation and the prevention of tax fraud and tax evasion with respect to taxes on income, signed at Rome 29 April 1983, Have decided to conclude an additional protocol to this Convention and have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of the Belgians:
Joseph Trouveroy, Ambassador of the Kingdom of Belgium;

The President of the Italian Republic:
Renato Ruggiero, General Director for Economic Affairs of the Ministry of Foreign Affairs;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

Article I

Paragraph 3 of the final protocol to the Convention between Belgium and Italy for the avoidance of double taxation and the prevention of tax fraud and tax evasion, signed at Rome 29 April 1983, shall be replaced by the following text:

"3. The provisions of paragraphs 1 and 2 of Article 19 shall apply to remunerations and pensions which the following services or institutions pay to their employees:

(a) with respect to Belgium:

- the National Company of Belgian Railways (la Soci,t, Nationale des Chemins de Fer belges/de Nationale Maatschappij der Belgische Spoorwegen);
- the Postal Service (la R,gie des Postes/de Regie van Posterijen);
- the Telegraph and Telephone Service (la R,gie des T,l,graphes et des T,l,phones/de Regie van Telegrafie en Telefonie);
- the General Commissariat of Tourism (le Commissariat g,n,ral du Tourisme/het Commissariaat-Generaal voor Tourisme);
- the Belgian Office of Foreign Trade (l'Office belge de Commerce ext,rieur/de Belgische Dienst voor de Buitenlandse Handel);
- the National Bank of Belgium (la Banque nationale de Belgique/de Nationale Bank van Belgi%o);

(b) with respect to Italy:

- the Italian Railway Administration (l'Azienda Autonoma delle Ferrarie dello Stato);
- the Administration of Postal and Telecommunication Services (l'Amministrazione delle Poste e delle Telecomunicazioni);
- the Italian National Tourist Office (l'Ente Nazionale Italiano per il Turismo);
- the Institute for Foreign Trade (l'Istituto per il Commercio estero);
- the Bank of Italy (la Banca d'Italia)."

Article II

1. This additional protocol shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible together with those of the Convention between Belgium and Italy for the avoidance of double taxation and the prevention of tax fraud and tax evasion with respect to taxes on income, and those of the final protocol, signed at Rome, 29 April 1983.

2. This additional protocol shall enter into force on the fifteenth day after the exchange of the instruments of ratification and its provisions shall have effect in respect of the taxes to which the Convention and the final protocol, mentioned in paragraph 1, apply.

Article III

This additional protocol shall remain in force as long as the Convention and the final protocol, mentioned in paragraph 1 of Article 2, shall apply.

In witness whereof the undersigned, duly authorized thereto, have signed this additional protocol and thereto affixed their seals.

Done at Rome, 19 December 1984 in duplicate, in the Dutch, French and Italian languages, the three texts being equally authentic.

For the Kingdom of Belgium:

J. Trouveroy

For the Italian Republic:

R. Ruggiero